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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 LAWRENCE ROBINSON,

15 Defendant.
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Case No. 1:97-cr-05129-JLT

ORDER GRANTING REQUEST FOR
RECONSIDERATION AND VACATING
AND DISMISSING ROBINSON'S
CONVICTIONS ON COUNTS EIGHT AND
NINE

(Doc. 450)

17 Lawrence Robinson requests that the Court reconsider its prior order denying his motion
18 for relief under 28 U.S.C. § 2255 due to the recent Supreme Court decision in *United States v.*
19 *Taylor*, 142 S. Ct. 2015 (2022). The government does not oppose Robinson's request and agrees
20 that Robinson should be released immediately. (Doc. 457.) For the reasons explained below,
21 Robinson's motion is **GRANTED**.

22 Robinson is currently serving: a term of life imprisonment for causing a death with a
23 firearm during a § 924(c) violation in violation of 18 U.S.C. § 924(j)(1) (Count Nine); a
24 concurrent 240 month term for attempted Hobbs Act robbery in violation of 18 U.S.C. § 1951(a)
25 (Count Seven); and 60 months, consecutive to the other two counts, for carrying a firearm during
26 a crime of violence in violation of 18 U.S.C. § 924(c)(1) (Count Eight).

27 Robinson previously brought a 28 U.S.C. § 2255 motion arguing that his conviction for
28 attempted Hobbs Act robbery was not a "crime of violence" for purposes of the 18 U.S.C.

§ 924(c)(1) count, thereby also invalidating the § 924(j)(1) count. The Court denied this motion on June 29, 2021. (Doc. 436.) Robinson timely requested reconsideration of that order and moved to stay proceedings in light of then-pending Supreme Court litigation in *Taylor*. (Doc. 437.) The Court granted the stay request. (Doc. 441.) Subsequently, the Supreme Court held in *Taylor* that attempted Hobbs Act Robbery is not a “crime of violence” as defined in 18 U.S.C. § 924(c)(3)(A).

A motion for reconsideration under Federal Rule of Civil Procedure 59(e) may be granted where, as here, there is an intervening change in the controlling law. *McDowell v. Calderon*, 197 F.3d 1253 (9th Cir. 1999) (en banc) (per curiam); *see also 389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). Based on *Taylor*, Robinson’s convictions under § 924(c)(1) and § 924(j)(1) must be vacated. Robinson’s § 924(c)(1) conviction was for carrying a firearm during a crime of violence—the attempted Hobbs Act robbery—and aiding and abetting such conduct. Similarly, the § 924(j)(1) conviction was for causing a death by use of a firearm in the course of the § 924(c)(1) violation. Therefore, if the § 924(c)(1) conviction falls, the § 924(j)(1) conviction must also fall. Because Robinson’s underlying conviction for attempted Hobbs Act robbery is not a crime of violence under § 924(c)(3)(A), according to *Taylor*, neither the § 924(c)(1) nor the § 924(j)(1) count can stand.

As to Robinson’s remaining conviction for attempted Hobbs Act robbery, he was originally sentenced to the maximum of 240 months with 5 years of supervised release. (Doc. 311). Robinson has now served more than that term, having been in custody since 1997. Accordingly:

1. Defendant Robinson’s motion for reconsideration (Doc. 450) is **GRANTED**.
2. Defendant Robinson’s convictions for Counts Eight and Nine are hereby **VACATED and DISMISSED**.
3. As agreed by all parties, having served more than the maximum 240 months on Count Seven, Defendant Robinson is hereby **RESENTENCED**¹ to **TIME**

¹ The parties have agreed specifically that there is no need for a new PSR or for a new sentencing hearing. (Docs. 450 at 7, 457 at 3.)

SERVED and to 60 months supervised release.

4. Defendant Robinson should be **RELEASED FORTHWITH** to begin the 60-month term of supervised release with the conditions described in the original amended judgment (Doc. 311 at 3–4).

5. The imposed special assessment of \$300 remains intact. (Doc. 311 at 5.)

IT IS SO ORDERED.

Dated: **November 28, 2022**


UNITED STATES DISTRICT JUDGE